No. 91-1887

Supreme Court, U.S.
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# In The Supreme Court Of The United States

OCTOBER TERM, 1991

JEFFREY MICHAEL STEINGOLD,

*Petitioner,*

v.

DAVID HARPER, et al.,

*Respondents*

## PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

## PETITION FOR WRIT OF CERTIORARI

**Jeffrey M. Steingold, Pro Se**
**Post Office Box 1175**
**Richmond, Virginia 23230**
**(804) 358-4818**

LAWYERS PRINTING COMPANY 7th & Franklin Bldg. Richmond, Virginia 23219 (804) 648-3664

## QUESTIONS PRESENTED

1. Can a judge arbitrarily disregard citizens' Civil Rights in violation of the Constitution of the United States by predicating his order of award to a party to a legal action based upon his own religious preference and beliefs?

2. Can the Florida judicial system legally deny United States citizens access to its judicial system?

3. Can a court of the Florida judicial system rule upon a foreign will and trust therein which was executed and probated in a foreign state, without having the will subject to its jurisdiction?

4. Can a court of the Florida judicial system rule upon a will and trust of a foreign citizen probated in a foreign state without having

jurisdictionally before it necessary and indispensable parties including the executor of the will, the trustee of a trust therein, and contingent beneficiaries to the contingent trust?

5. Can judges use the Florida judicial system in conspiracy to further their private enterprise by using the judicial system to deny United States citizens of their Constitutional Rights of Due Process?

6. Can judges of the Florida judicial system deny United States citizens Freedom of Access to the Judicial System and courts therein to prevent citizens from protecting and preserving their property rights?

7. Can judges of the Florida judicial system carry forth a pattern of racketeering and conspiracy by registering fraudulent judgments in

separate sovereign state courts and demand comity and full faith and credit thereon?

8. Can a Federal court dismiss a defendant who is legally before the court by citing case law in favor of said defendant that has no relation to the allegations presented and alleged?

9. Can a Federal judge summarily dismiss a complaint based upon the premise that the defendants are judges?

10. Can a Federal court allow a defendant to refuse to answer a complaint based solely upon the premise that he is a judge?

11. Can a Federal court rule in its Memorandum and Order that if a civil complaint is filed against a judge, it will be dismissed sua sponte without first determining any factual allegations?

12. Can a Federal court dismiss a defendant who is legally before the court by citing case law in favor of the defendant which has no relation or relevancy to the allegations alleged?

## LIST OF PARTIES

The parties are the Petitioner, Jeffrey M. Steingold, pro se, and the Respondents, David Harper, John E. Fennelly, William L. Hendry, Paul B. Kanarek, C. Pheiffer Trowbridge, Michael Beale, Martha E. Warner, Brenda Beale Steingold, Thomas Wackeen, George W. Hersey, David G. McGunegle, Michael L. Fox and Gene Goldin, all of whom have an interest in the outcome of this proceeding but due to the ruling of the case below in both the District Court for the Eastern District of Virginia and the Fourth District Court of Appeals, one of the North Carolina judges, Michael Beale, and the original plaintiff in the Florida case, Brenda Beale Steingold, were allowed by the lower court judge not to answer complaint, but are parties hereto.

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The Fourth Circuit's decision that appellant had no jurisdiction to file his Complaint did not take into consideration violation of Constitutional law. Separation of Church and State, extra-judicial rulings, lack of immunity of judges, jurisdiction based upon the RICO and 1983 Civil Rights Act, circumstantial evidence, personal jurisdiction and liberal amendment of pleadings.

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JEFFREY MICHAEL STEINGOLD, Petitioner,

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DAVID HARPER, et al, Respondents.

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PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT
OF APPEALS FOR THE FOURTH CIRCUIT

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The Petitioner, Jeffrey Michael Steingold, respectfully prays that a Writ of Certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Fourth Circuit, entered in the above entitled proceeding on November 19, 1991, as the issues joined are matters of great public importance and if not addressed here and now will destroy and

disseminate the system of jurisprudence of all fifty sovereign states in direct defiance and contradiction of the Constitution of the United States of America.

## OPINIONS BELOW

The Final Judgment of the Circuit Court of the Nineteenth Judicial Circuit in and for Martin County, State of Florida is attached hereto, said Judgment being entered on May 29, 1990 which is reprinted in the Appendix hereto at p. 1a, infra.

The Memorandum and Order of the United States District Court for the Eastern District of Virginia is attached hereto, said Order being entered on August 6, 1991 which is reprinted in the Appendix hereto at p. 22a infra.

The opinion of the Court of Appeals for the Fourth Circuit Court is reported

at No. 91-1699, unpublished, decided November 19, 1991, which is reprinted in the Appendix hereto, at p. 63a, infra.

JURISDICTION

The United States District Court for the Eastern District of Virginia entered its decision and Final Order on August 6, 1991, holding that plaintiff had failed to state a claim for relief under 42 U.S.C. Section 1983 or RICO; that plaintiff had not met his burden of establishing defendants other than Brenda Steingold are within this court's jurisdiction; that plaintiff's complaints had not been well grounded in the law and had been issued for improper purposes.

Petitioner appealed to the Court of Appeals for the Fourth Circuit which affirmed by unpublished per curiam opinion decided November 19, 1991, see

p. 63a, infra.

The jurisdiction of this court to review the judgment of the United States District Court for the Eastern District of Virginia and the per curiam opinion of the Fourth Circuit Court of Appeals is invoked under 28 U.S.C. Section 1954 (1).

## STATUTES INVOLVED

1. 42 U.S.C. Section 1983.

2. 18 U.S.C. Section 1964 (c).

3. Code of Virginia 1950, as amended, Section 8.01-45.

4. Florida Rules of Ethics.

## STATEMENT OF THE CASE

Brenda Beale Steingold filed action for divorce against Petitioner, Jeffrey Michael Steingold, in 1988, in the Circuit Court of Martin County, Florida Nineteenth Judicial Circuit, case number 88-782-FD.

During the pendency of suit, Petitioner was a practicing attorney in that jurisdiction but suffered a heart attack and was unable to continue practicing law. He was treated by a physician who ultimately provided testimony at trial that Petitioner, due to his medical infirmity, could no longer carry on the day-to-day functions of his chosen profession. There was further testimony from an independent medical examiner secured by the wife, substantiating and confirming the fact that husband was not able to pursue his profession and that due to his critical medical condition could suffer a fatal heart attack.

Petitioner's father, who lived in Virginia prior to his demise, executed a will and trust therein in favor of his wife, the brother of Petitioner.

Petitioner, as well as Petitioner's children. The trust vesting provision explicitly only vested in Petitioner contingent upon his reaching the age of fifty (50) years. At that time, he had a right to request a portion of the principal thereof. However, if the Petitioner died prior to reaching the age of fifty, his contingent interest would spring over his estate and vest in Petitioner's children living at that time.

After the final hearing, the court entered the divorce Final Judgment on May 29, 1990, noting that Petitioner was forty-nine (49) years of age.

In testimony, the wife stated she converted to the religion of Judaism and became active in the Jewish community and that the parties raised their children in the Jewish faith.

It was stipulated in the evidence that the parties had no other joint marital property or assets other than their home, the husband's law office, the wife's two motor vehicles and the wife's jewelry valued at $30,000.00. The husband had separate property consisting of singular motor vehicle, a small boat that was wholly encumbered due to a loan to pay the mortgage on the joint marital residence, and some other small items of personal property.

During the course of the divorce proceedings, husband filed four motions to have the judges removed from hearing the case due to the judges' obvious prejudice against him. Three of the judges did voluntarily recuse themselves, of whom two of these judges admitted prejudice by doing so. The last judge who entered Final Judgment

against Petitioner refused to be recused even though there was abundant evidence to show that, pursuant to the case law and Code of Florida, he was apprised of the former judge's hostility and position by the prior judge who was recused.

This judge immediately issued orders directing Petitioner to retire his only motor vehicle to the garage at the marital residence and to cease driving the same. He did this as he had already determined that the wife was going to receive husband's vehicle. Petitioner had no other means of conveyance and lived five miles from the nearest grocery store and fifteen miles from his treating physician. The judge had previously been apprised of husband's situation, however, flatly refused to modify his order and

subsequently found husband guilty of contempt of court for driving the vehicle to his doctor's office.

Petitioner attempted on multitudinous occasions to secure a date to be heard by Motions for Relief on all previous orders against him, including the last, and to reduce or abate the temporary support order, however, a few days prior to each hearing, the judges would arbitrarily cancel with no explanation. PETITIONER NEVER WAS GRANTED OPPORTUNITY TO BE HEARD ON ANY OTHER MOTIONS WHICH HE HAD FILED.

At final hearing, the court allowed a copy of a Virginia will and trust therein to be introduced into evidence without foundation, proof of verification, substantiation or qualification, and ruled by interpretation upon its vesting without

having the Virginia res, Virginia will, Virginia executor of the will, Virginia trustee of the trust therein, Virginia beneficiaries of the trust, or contingent beneficiaries of the trust before its jurisdiction.

The court also admitted that it enhanced and increased wife's award because of her religious preference of changing her religion and that the children born of the marriage were raised in accordance with the particular religion of the judge and in a community allegedly based on the religious preference.

In the final decree, the court cited certain facts and more specifically, stated in its recital that "When the parties oldest child was in the third grade, the Wife converted to the Husband's religion (Judaism) and

became active in the Jewish community. The parties children were raised in the Jewish faith."

The court then gave the wife all of the joint marital property owned by the parties including the marital residence valued at $385,000.00, the husband's law office valued at over $100.000.00, the husband's only motor vehicle, $20.201.39 in temporary alimony arrearage which the husband could not pay due to his previous medical condition and inability to work during that period of time (the support was continuing to accrue during the time the court refused to give him a hearing to abate the same); and $100.000.00 of husband's which was his total separate estate received through inheritance.

The court further found that the Virginia family trust of the Virginia

will vested prior to husband's reaching the contingent age of fifty (50) years and the court further stated that "On June 22, 1990, the husband has the right to one-half of the assets of the family trust." The Petitioner was ordered to instruct the trustee of the family trust to pay this $29.201.39 judgment on or before 22, 1990.

The court further awarded wife the sum of $100.000.00 of the husband's aforesaid inheritance money which husband no longer had, and ordered that it shall be a lien against the Petitioner's interest in the family trust.

The court allowed the wife to retain her motor vehicles (3), jewelry, furniture and furnishings and all other property she had captured and taken out of the state in violation of the

original judge's order.

The court further awarded wife attorney's fees which were an astounding $164,000.00. It was later discovered in a subsequent hearing that the original contract between the wife and her attorney was for $100.00 per hour but toward the end of the lawsuit, it was agreed between the court, wife's attorney and wife that the contract be increased per hour to the sum of $150.00 which was done pursuant to a statement early on by a former recused judge before any evidence of property ascertained that husband would pay wife's attorney fees and costs.

Petitioner petitioned the court pursuant to the Rules of Procedure of Florida to enter a supersedeas bond to protect interest in his motor vehicle that was awarded to wife. Each and

every time Petitioner would secure a hearing date, the judge would refuse to allow the hearing to proceed.

The court knew full well that Petitioner's appeal was pending on all issues at the time that husband was requesting protection of his property, but for obvious reasons it continued to refuse to allow hearing on the supersedeas bond. The lower court knew that the appeal court would dismiss the appeal for husband's failure to abide by the lower court order to turn over his vehicle to wife, and the appeal was subsequently denied.

Through unrefuted evidence, Petitioner demonstrated he had a separate special equity of over $60,000.00 towards the purchase of the real property, but again the court refused to allow husband his right

thereto and gave the entire property, including the marital dwelling, to the wife, as seen on page 6a of the Final Judgment, paragraph 11, wherein the court disjointedly states that "The Husband claims a special equity in this home by virtue of monies which he paid for the real property which came from his inheritance. This property was originally purchased and titled as entireties property and remained so titled except for a short period of time when the Husband conveyed it to the Wife in an attempt to evade possible creditors. The evidence presented by the Husband concerning the monies from inheritance is not believable and the Court determines that the Husband does not have a special equity in this property." This statement again shows the absolute total prejudice and bias

and scheme of the court to extract and steal the property from Petitioner as there was absolutely no rebuttal evidence.

The court further ludicrously ordered, when awarding the marital residence to wife, that husband would be responsible for "bringing it back into condition that it was in June of 1988." We must remember that the date of judgment was May 29, 1990.

The court further ludicrously stated when it awarded husband's motor vehicle to wife, that he would be responsible for any costs of repair to the vehicle to bring it back to first-class mechanical and body condition and that the court retain jurisdiction to enforce the order. This again shows the incredible ludicrousness of the court, whereas the court knew through testimony

and documentation that the vehicle was damaged and had motor difficulties that occurred several years prior to hearing. The court obviously left an open-ended pocketbook for the wife for both the martial residence and the vehicle which it knew husband could not possibly pay (as reprinted in the Appendix at p. 27a and 29a, infra, respectively, of the Final Judgment).

During the pending hearings after final order, the lower court judge issued a capias of arrest against Petitioner full well knowing that Petitioner had no funds to pay the judgment awarded, and that if Petitioner did provide wife with his vehicle, the wife would immediately bring him before the court and before her judge on a motion for contempt for not having the vehicle in "first-class condition" and

he would have ultimately been incarcerated indefinitely and would have died in jail. The wife would have again brought a motion for contempt against Petitioner before that same judge for his inability to pay for restoration of the house and any and all bogus bills that she would have generated to "repair" the same pursuant to the court's Final Judgment. Again, the judge would have had Petitioner incarcerated and he would have died in jail due to his inability to pay for restoration fees. The wife would have Petitioner again brought before the judge on a contempt motion due to his inability and failure to pay her attorney's fees, and he again would have been incarcerated for an indefinite period and would have died in jail because he could not have possibly paid.

The Petitioner, as a result of the aforesaid, had no choice but to flee the State of Florida as have so many other victims of the conspiracy, for fear of absolute ultimate death from the court and the conspiracy of the judges.

Upon Petitioner's arrival in the Commonwealth of Virginia, he immediately filed suit against the judges involved in the conspiracy against him. After reading the testimony of trial and the Final Judgment, responsible minds could come to no other conclusion but that a long-standing ring of conspirators, including the judges and some attorneys in the Nineteenth Judicial Circuit of the State of Florida, had continuously been committing the same crimes against individual citizens of that state. Petitioner received numerous letters and telephone calls from individuals against

whom these conspirators had perpetrated the same crimes. Several of the individuals also had to flee the State of Florida for fear of incarceration due to the court's stripping them of all of their worldly possessions and thereafter issuing capias against them for arrest as well as actual arrests.

The Petitioner filed several appeals in the Fourth District Circuit Court of Appeals in West Palm Beach, Florida, but each was immediately and summarily rejected and denied by one of the judges of that court who was later found to be a conspirator working in concert with the judges of the lower court.

The Petitioner then appealed all final orders of the courts to the Supreme Court of the State of Florida. They summarily dismissed the appeals

basing their refusal on lack of jurisdiction, as the lower court did not determine that a state statute had been determined to be unconstitutional, their only ground for hearing the appeal.

REASONS FOR GRANTING THE WRIT

VIOLATION OF CONSTITUTIONAL SEPARATION OF CHURCH AND STATE

The lower Federal court refuses to recognize the Constitutional Right of Separation of Church and State and thereby is in absolute violation of the United States Constitution as to Due Process. It obviously overlooked paragraph 6 of the Final Judgment of the Florida Court wherein it states "When the parties oldest child was in the third grade, the wife converted to the husband's religion (Judaism) and became active in the Jewish community. The parties' children were raised in the

Jewish faith". See Appendix, p. 4a. Final Judgment.

In a Florida State Bar hearing on March 6, 1992, the judge and one of the Respondent conspirators and drafter of the Final Judgment of May 29, 1990, subject of Petitioner's suit, admitted under oath and on the court's record that he had taken into consideration and had rewarded the Petitioner's former wife (plaintiff in the divorce case) for her conversion to Judaism and for raising the children in the Jewish faith and becoming active in the Jewish community. Kanarek also admitted that he was of the same religion as the former wife, Jewish.

It is blatantly obvious that the Florida judge, being a Jew, interjected his own religious beliefs into the Final Judgment and therefore arbitrarily and

capriciously awarded Respondent/ Appellee with vast sums of money and property from appellant for her conversion to the judge's religion. For that matter, the judge rewarded Respondent/Appellee unconstitutionally for merely suggesting any religious basis involved in his award.

The excerpts of testimony from the Florida Bar hearing on March 6, 1992, reprinted in Appendix hereto, p. 71a, infra, against appellant positively state this. See cross-examination, when the judge was asked and testified:

"Q. Now, Judge, you are of the Jewish religion...?

A. Yes, sir.

Q. Are you a Jew?

A. Yes, sir.

Q. Turn to page two, paragraph six of the final decree, of the final order.

Q. It says there that "When the parties' oldest child was in the third grade, the Wife converted to the Husband's religion (Judaism) and became active in the Jewish community. The parties' children were raised in the Jewish faith." Isn't that correct?

A. Yes, sir.

Q. Is it normal, sir, to bring your religion into a final decree such as this?

A. The answer is yes, in this circumstance. If I can explain, this was a relatively long-term marriage. The wife was seeking alimony for her contributions. The evidence reflected that the wife during the marriage changed her religion to the husband's; that she raised the children in her husband's religion, and I considered those to be contributions she made

toward the marriage..."

This is an absolute violation of the Separation of Church and State. Due Process and Civil Rights of Petitioner/Appellant.

See United States of America v. James O. Bakker. United States Court of Appeals for the Fourth Circuit. No. 89-5687. published and decided 2-11-91. which is reprinted in the Appendix hereto. p 65a. infra. This recently reversed Federal Court Appeals case was due to the judge's impermissible considerations when sentencing Reverend James O. Bakker. The court reversed the sentencing due to the judge's abusing his discretion and violating appellant's due process by factoring his own sense of religiosity and victimization into the sentence he imposed.

EXTRA-JUDICIAL RULINGS AND IMMUNITY

The United States District Court's ruling of Memoranda and Order stated emphatically that the judgment of the Florida Court was rendered in personam against Mr. Steingold and merely "directed" Steingold, a person over whom the Florida Court had personal jurisdiction, to take certain actions in order to satisfy a judgment. Obviously the court refused to read the Final Judgment of the Florida Court reprinted in the Appendix hereto at paragraph I, p. 29a, infra, wherein it stated "as additional lump sum alimony, the husband shall pay to the wife the sum of One Hundred Thousand Dollars ($100,000.00) which shall be a lien against the husband's interest in the family trust". By this, Kanarek, the Florida judge, adjudged that a lien, extra-judicially ruled, shall be placed against the

husband's interest in the family trust by this court. Nothing could be more clear than his ruling which incorporated property which was not within his jurisdiction. Again, the U. S. District Court overlooks this extreme exaggerated ruling. (See Appendix at p. 72a)

Kanarek further ruled that the Virginia trust vested, this ruling determined without having before his jurisdiction the Virginia will of which the Virginia trust was an integral part, the Virginia trust, absolute indispensable necessary parties as to the Virginia executor, the Virginia trustee and the beneficiaries to whom certain contingencies applied pertaining to this trust.

Judges are not immune for complete absence of all jurisdiction. See Bradley v. Fisher, 13 Wall. 351.

In a dissent in Mireles v. Waco, aforesaid mentioned, Justices Stevens, Scalia and Kennedy, made a meaningful dissent by stating that the law is well settled that one state or division therein cannot rule upon the subject property thereto nor can one state determine the rights of necessary parties whose rights are affected unless they are legally before that court. In the cases of Greisman v. Strapiro, Supreme Court Practice 281 6th Ed. 1986, and Schweiker v. Hansen, 450 U.S. 785, 791, 101 S. Ct. 1468, 1472, 67 L. Ed. 2 685 (1981), and in all future cases, to allow one state to rule upon land or other property within another sovereign state without having before it any of the necessary indispensable parties, and that state's being able to rule upon another state's property which affects

the rights of all individuals that are not within the jurisdiction of that particular state, is a usurpation of the latter state's sovereignty and transgresses the constitutional guarantees of individual states, laws and statehood. The Constitution of the United States does not guaranty full faith and credit to a decree of one state wherein it attempts to usurp the jurisdiction of another state without having property before its jurisdiction, all individuals and property in order to determine property rights and individual rights guaranteed by the Constitution of the United States.

The United States District Court further erred in its original Memorandum and Order of August 6, 1991, when it arbitrarily stated in Section I thereof that "Petitioner seeks to avoid the

consequences of a divorce decree and judgment entered against him in the State of Florida". The judge obviously went no further in reviewing the documents than unfairly summarizing Petitioner's complaint as such, for if he had read the allegations therein, he would have realized that Petitioner's Constitutional Rights to Due Process and Access to the Courts and Separation of Church and State as guaranteed by the Constitution had been totally violated and breached by the conspiracy of the judges and their co-conspirators. This conspiracy is continuing against Petitioner and others to this day. This is substantive Constitutional law which was wrongfully overlooked and abused by his decision.

JURISDICTION

Further, a material fact pertaining

to the Virginia long-arm statute. Virginia Code Section 8.01-328.1. fully described in the original pleadings that "the Respondents furthered their conspiracy and extortion of Petitioner by registering their Florida judgment in the Commonwealth of Virginia, Circuit Court of the City of Virginia Beach, Virginia, and are proceeding and pursuing within that Commonwealth." This quite obviously makes them subject to service of process and subject to the Virginia judicial system and jurisdiction.

The Court further erred by failing to realize that every day judges are being arrested for stealing, extorting, conspiring and taking bribes of funds and property from fellow conspirators. They are, in fact, subject to criminal liability and prosecution as well as

civil liability by their substantive extra-judicial rulings to perfect their illegal and unconstitutional actions.

It is blatantly clear that the lower court judge erred by overlooking the entire pleading of Petitioner as to the Florida judge's ruling of the vesting of a Virginia trust pursuant to a Virginia will containing the Virginia trust, and without having the Virginia executor of the will, the Virginia trustee of the Virginia trust, and the beneficiaries before him. See Forrest v. White, 484 U.S. 227-229 108 S.Ct. 544-545 Stump v. Sparkman, 435 U.S. 360 98 S.Ct. 1106. Judges are not immune when they rule on issues that are complete in absence of all jurisdiction. See 98 S.Ct. 1104-1105. Bradley v. Fisher, 13 Wall 351. in their descent of justice, Stephens, Scalia and Kennedy.

wherein they state that the law is well settled that one state or division therein cannot rule upon and subject property thereto nor can one state court determine the rights of necessary parties whose rights are affected unless they are legally before that court. see Greisman v. Strapiro. Supreme Court Practice 281. 6th Ed. 1986. and quoting Schweiker v. Hansen. 450 U.S. 785. 791. 101 S.Ct. 1468. 1472. 67 L ed. 2 685 (1981).

The ruling of the Florida courts are so extraordinary that this case may establish a legal precedent in the State of Florida and elsewhere that is in total violation of states' sovereignty and individual citizens' constitutional rights. Virginia may grant constitutional full faith and credit to the decree thereby affecting all states'

sovereignty if this ruling is not overturned. The Florida court judge made a profound, illegal and unconstitutional ruling that changed the legal sovereignty and rights as guaranteed by the United States Constitution by ruling without having all necessary indispensable parties before the court. See National Malleable & Steel Castings Co. V. Goodlet, 195 F. 2d 8, wherein the close circumstances of this case, the court ruled that the extra-judicial rulings of the lower court could rightfully be ignored by those that it affected.

It is further obvious that the latest ruling of the Supreme Court of the United States, Raymond Mireles v. Howard Waco, 112 Supreme Court Reporter 286, which allowed a California judge to "use excessive force against a citizen

for no reason other than he did not appear in the judge's court at the proper time, and the fact that excessive force was used which humiliated the citizen as well as its outcome could have been devastating. yet the Supreme Court allowed judicial immunity because the citizen sitting on the bench was a judge and had the "power" of a God. The descent pled logic and saneness. This form of tyranny will no longer be tolerated by United States Citizens. as the dissents in this case were well-taken on the split decision of this Honorable Court of four to three. Is the judicial system so intimidated by its own tyranny that it must protect its judges regardless of their unexcusable totalitarian tactics and methods at all costs?

OTHER INDIVIDUALS SUED

The Court failed again to realize that a conspiracy of judges also flows to other individuals not in the judicial capacity, but nevertheless, co-conspirators therewith. The Complaint of Petitioner in each count, repeated, realleged, adopted and incorporated all of the previous counts and numerous pleadings therein and thereby provided all necessary allegations lodged against each appellee to substantiate the Complaint.

The United States District Court further erred by arbitrarily overlooking the fact that the Florida statute protecting individuals designated by the Florida Bar to investigate allegations of improprieties by attorneys does not protect individuals who act out of the scope of their duly assigned duties and authority. When these acts are

performed in conjunction with and in conspiracy with others. their actions are not protected by statute and consequently they become liable to civil suit.

The federal court judge again inadvertently supported Petitioner by citing Rankin v. Howard, et al, 633 F.R. 2d 844. wherein he stated at page 850, "private parties who corruptly conspire with a judge in connection with such conduct are ... acting under the color of state law within the meeting of Section 1983 of the United States Code. They will be held civilly liable." See Johnson v. MaCoy. 278 F. 2d 37 "where judicial officer does an act in the clear absence of all jurisdiction and knows of the absence of such jurisdiction. his immunity is pierced."

CIRCUMSTANTIAL EVIDENCE

Case law is abundant regarding the Petitioner's right to prove his case by circumstantial evidence before a jury of his peers and does not have to prove each act thereof specifically. See Hunt Vs. Weatherbee, 626 F. Supp. 1097, in which it specifically states "a conspiracy under Civil Rights Conspiracy Statute 42 U.S.C.A. Section 1985, may be implied from the circumstances; a plaintiff need not show that agreement between two or more persons to commit an illegal act was expressed". Obviously, the United States District Court did not wish to have Petitioner reach this stage of proceedings for fear that the judicial system could not tolerate another showing of conspiracy of judges. It would further tarnish the mystique of the judicial system and rationally make the public aware that judges can do

wrong and conspire to steal from individuals by using their judicial positions to do so. The old adage that a judge is beyond reproach or approach no longer is an accurate, valid or a viable concept, and has proven to be a misnomer.

DISMISSAL OF FEDERAL COMPLAINT

The cases cited by the lower court in support its position against Petitioner had no relation or bearing nor were they on factual point regarding the allegations of Petitioner's Complaint.

The lower court stated in its Memorandum, reprinted in the Appendix hereto, p. 52a, infra, citing Donlan, 662 F. Supp. 359, that the wife and her attorney were not state actors for Section 1983 purposes, however the fact that they were participants in the

fraudulent scheme never entered the lower court's reasoning. The individuals in Petitioner's case worked in conjunction with the conspirator judges. The lower court further indicated that res judicata principals barred the husband from litigating the claim against the wife stating that he could have, but never challenge the validity of the underlying contempt order and subsequent jailing pursuant thereto. Note that Petitioner requested times and dates to be heard by the Florida Circuit Court and was denied and the court resisted granting each and every attempt subsequent motions to the Fourth District Court of Appeals of Florida. Petitioner appealed the entire case to the Fourth District Court of Appeals of Florida, but due to the continuing conspiracy therein was

denied. Surely this is why the husband is suing in his 1983 action, i.e. CONSTITUTIONALLY GRANTED ACCESS TO THE COURTS. The Petitioner can absolutely show at the time of trial he was refuted, repealed and repulsed each time, and that these Florida courts denied him total access to the court by refusing to grant him times and dates to be heard on all issues pending. The United States District Court again obviously neglected to give credence to Paragraph 59 of Petitioner's Amended Complaint when the Florida lower court judge did immediately issue orders of arrest of Petitioner. The judge full well knew the impossible position in which he had placed Petitioner so as to constitutionally disable and deny him from defending himself and his property in any court in the State of Florida

without fear of immediate arrest.

Further, at Paragraph 63 of the Complaint, the court erred and refused to note that "as a result of Florida judge's conduct in furtherance of the conspiracy and to keep Petitioner from appearing and defending himself and his property, Petitioner can no longer appear in the State of Florida to defend himself for fear of an outstanding arrest warrant issued and ultimate arrest and for fear of his life and limb."

The United States District Court chastises Petitioner for his allegations in reliance of statutes against the Florida judges and other conspirators pursuant to state law claims including Defamation and Intentional Infliction of Emotional Distress. Taking the pleadings as each incorporated with the

other, which the court must do pursuant to the rules. Petitioner provided clear and cogent evidence as to the North Carolina Judge Beale's part in the conspiracy by his meeting of the minds with other conspirators to deprive Petitioner of his Constitutional Rights of Due Process and Access to the Courts and deprivation of life and property, as stated in Paragraph 92 of the Complaint substantiated this count.

In Paragraph 93, Beale perjured himself by making false statements as to property owned by Petitioner in order to gain a false but favorable position on the record for his Respondent/Appellee sister.

Paragraph 94 alleges that Respondent Beale wrongfully and maliciously reported Petitioner by letter published to the Florida Bar

providing vague, ambiguous and slanderous statements against Petitioner suggesting unethical conduct during the divorce proceedings. This statement in and of itself passes the test for slanderous allegations pursuant to the Virginia Slander and Libel Statutes, and as alleged in the Federal Court Complaint. Michael Beale had no standing or reason to report Petitioner to the Florida Bar other than to further the conspiracy. Does this individual from North Carolina report all persons in Florida to their bar in each of their cases? I think not.

Beale was alleged to be working with his co-conspirator Respondent Wackeen, attorney for former wife, during the divorce proceeding and after trial. All of the allegations against Beale are factual and were to be

substantiated at trial.

The lower court on absolutely no legal basis or authority, dismissed the suit against Brenda Beale Steingold but did so by absolute sham reasoning. This was done only so that she would not have to face the Federal complaint and ensuing trial. Though all of the Federal requirements of substantiveness and jurisdiction were met, she was dismissed ab initio with no logical explanation.

Another material fact that the lower court erred by overlooking was the participation of Judge Trowbridge, a defendant Florida conspirator judge. In the Intentional Slander Count VII of the original Complaint, all factual allegations have been incorporated in and were accurately portrayed in the Complaint. Federal jurisdiction and pursuant to the Virginia Wrongful

Slander and Libel Statutes Sections 18.2-416 and 18.2-417 and pursuant to Section 8.01-45 should have been invoked.

The Complaint again stated, "Appellant Petitioner again repeats, incorporates, realleges and adopts all former paragraphs 1 through 82 and further states that Trowbridge, as Beale, willfully, maliciously, wantonly and slanderously defamed Petitioner by publishing grossly insulting words, fighting words and other statements that he had been informed of third-hand but did not know the truth thereof."

Appellant Petitioner further states that there was a meeting of the minds between Trowbridge in concert with other conspirators to maliciously deprive Petitioner of his Constitutional Rights and to carry on the conspiracy with all

other Defendants. Trowbridge thereby attempted to illegally slant, taint and pack the court record against Petitioner by his slanderous and insulting statements and allegations in efforts to further the conspiracy and extort money and property from Petitioner.

All necessary and substantive statements as to factual allegations have been fully alleged against Trowbridge in Petitioner's Complaint. The acts between non-judges and the judges in this case do not need to comprise all as state actors, but merely all acting in concert establishes a basis for suit pursuant to the Civil Rights Statutes 28 U.S.C., Section 1983, and Federal RICO Act relied upon by Petitioner Appellant pursuant thereto. The lower court judge again ignores the fact that state actors and judges were

involved in the conspiracy and the conspiracy is carrying forward its actions based on the extra-judicial illegal acts, rulings and violations of Due Process Rights against the Petitioner.

The lower court judge further erred by refusing to acknowledge that Petitioner/Appellant has been summarily and totally denied his Rights of Due Process and Access to the Courts as well as the violations of the conspirator judges in basing their decisions to award Respondent and her co-conspirator attorney bountiful remuneration for bringing this divorce suit within their jurisdiction. Petitioner provided all necessary and substantive information within the body of his Complaint and his Amended Complaint and Memorandum in Support of his Motion Against Dismissal

thereof, but the court ignored the aforesaid and ruled against him and forever dismissed the suit. It blatantly pointed out the dismissal in favor of Michael Beale, a judge, sua sponte.

The lower court claims that Petitioner Appellant filed a frivolous lawsuit but refuses to allow the allegations to come forward in a trial.

The lower court cites U.S.F. & G Co. V. Lawrenson, 334 F. 2d 462, where a convicted prisoner filed for a new trial because of new evidence of impeachment of a witness found after trial. This case as the others cited has nothing to do with consequences of the "Petitioner's case". Petitioner's case has never been tried. The case at bar is not a continuation of the original Florida case as the lower court

erroneously believed. Obviously the court read no further than the opening paragraphs of the Complaint. The judge read Beale's letter, another Respondent judge, and immediately agreed that Petitioner filed "nebulous pendent state law claims."

FEDERAL RICO ACT

As to ongoing criminal enterprise RICO pursuant to the case of McMurtry V. Brasfield, 654 F. Supp. 1222, advocates continuity plus relationship and continuing criminal activity interstate ongoing from Florida through North Carolina and now into Virginia. The continuity is not a narrow category of action by Respondents, as this conspiracy is multi-state, and Petitioner will proffer the conspiracy's effect on himself as well as other citizens at time of trial through their

individual testimonies.

The lower court's own case cited of Rankin V. Howard, 633. F.R. 2d 844, states that judicial immunity is lost where a judge lacks jurisdiction or acts in the face of clearly valid statutes or case law thereby expressly depriving him of jurisdiction. If a judge then rules extra-judicially, as the Florida judge Respondents have done, their rulings must be ignored.

LACK OF IMMUNITY OF BAR OFFICIALS

The Florida Bar officials are not immune from civil suit pursuant to the statute in accordance with which they acted. If these individuals acted in variation or violation thereof, they subject themselves to civil process. The Complaint shows that they have violated their authority and acted out of the scope of their authority in

conspiracy and in concert with the Respondent judges and other co-conspirators named.

A judge cannot clothe himself with the shield of judicial immunity when he rules extra-judicially on property, wills and trusts that effect citizens of other separate sovereign states and which are not within his jurisdiction. It is obvious from the Final Judgment of the Respondents that this was exactly the case, and this is precisely why the writ herewith should be granted. A court cannot subject individuals and property that are not within its jurisdiction to its jurisdiction over which it has no jurisdiction.

DAMAGES REQUESTED

The lower court judge's opinion in Paragraph 6 further states Complaint must be dismissed for failing to state

claim for money damages from any Florida state judicial or bar official. the judge already admits in his second paragraph on page 3 that Petitioner Appellant seeks to hold Defendants liable for over Eleven Million ($11,000,000.00) in compensatory and punitive damages! Is this not double-talk and total denial of the allegations and damages sued for?

PERSONAL JURISDICTION

The lower court judge states that except for co-conspirator Respondent Brenda Beale Steingold, "no Defendant is even alleged to do anything that would subject themselves to personal jurisdiction by this court sitting in Virginia." See the judge's own case Singer V. Bell, 585 F. Supp. 300, where it states "It is well established that the acts of a co-conspirator may be

attributed to a defendant for the purposes of obtaining personal jurisdiction over the defendant." Add this to his case of Spencer's case of Raymond Colesar, Glaspy & Huss, P.C. V. Allied Capital Corp., 761 F. Supp. 423, wherein it states "the Fourth Circuit again affirmed the finding of personal jurisdiction." Wherein this and other cases cited, the court stated it found that a defendant instituted a relationship with a Virginia resident who would perform work in Virginia. Where Petitioner's cause of action arose from Virginia activities, the Virginia long-arm statute is satisfied. In Petitioner's case, not only did the co-conspirator Respondent Brenda Beale Steingold and her co-conspirator Respondent attorney initiate a suit to collect pursuant to the same fraudulent

judgment and scheme in Virginia, they engaged the services of an attorney in Virginia to pursue that suit and, therefore, their conspiracy pursuant to the statute is met as the conspiracy moved into Virginia. The Singer case where prima facie evidence shows conspiracy and definite connections between the alleged non-resident conspirators and the forum is a definite example by filing and pursuing the fraudulent judgment in Virginia.

The lower court judge helps Petitioner again, not wantingly, by citing Rankin V. Howard, et al, 633 F.R. 2d 844, wherein it states at page 850 "private parties who corruptly conspire with a judge in connection with such conduct are ... acting under the color of state law within the meaning of Section 1983. They will be held liable

civilly."

Donlan, as cited by the lower court judge, is remote and does not have the first thing to do with the facts of Petitioner's case, as Donlan did not allege conspiracy between wife and judge. The present appealed case does establish and allege this contention. The lower court judge's cases all cited to support his dismissal of the complaint have nothing to do with the facts alleged by Petitioner. They are thrown in to justify the end product of dismissal of the complaint against other judges and for their protection. Upon reading the complaint and studying of the case law cited by the lower court judge, the court would see two totally different factual bases and the cases cited by the lower court do not come close to the factual pleadings and case

law that must be applied.

RES JUDICATA

As to the amendment of pleadings, the court allows liberal amendment thereto See the United States District Court judge's case Ashelman V. Pope, 793 F.R. 2d 1072. Why now, where judges are defendants, does the court refuse to allow amendment and summarily dismiss Petitioner's case? Why now does the judge in his final order state that he will dismiss "sua sponte" any further complaints similar to the ones already dismissed as to Judge Beale. Is that protection species?

In Gilbert V. Bach, 697 F. Supp. 202, cited and relied upon by the lower court judge, the petitioner therein had already previously litigated and concluded the case in that forum and lost. In the present case, the lower

court judge will not allow Petitioner to even climb the courthouse steps, as this case has been successfully blocked by the judge since and at its inception.

AMENDMENT OF PLEADINGS

The United State District Court in the first filing of Petitioner's Complaint under Civil Action No. 3:91CV00262. violated the long-established rule and case law of Leave to Amend Pleadings liberally unless undue prejudice would result to opposing parties. Louis J. Damiani, et al, Vs. Linda Adams, et al. 657 F. Supp. 1409. and F.R.C.P. 15(a) 28 U.S.C.A.

It is further obvious that the lower court judge, in the first order of case 3:91CV00012. did not look beyond the words "defendant judges" as he states that the judgment rendered was in personam against Petitioner merely

"directing" him to take action to satisfy a judgment. Actually, the decree was a blatant extra-judicial ruling by the Florida judges against Virginia property and by its ruling that the Virginia trust vested. The judge obviously ignored Count VI which repeats, realleges and adopts Petitioner's number 1 through 39 which includes Petitioner's number 17 against all Respondents for money damages as well as number 82 and Appellant's Fourth Claim for relief for money damages against all conspirators jointly and severally. All Counts provide full factual explanations of the illegal wrongdoings of the heinous acts of Defendants and not just conclusitory statements.

CONCLUSION

The lower court determined that

Petitioner's Complaint was inept and without legal efficacy or merit. It advocates the position that the law protects judges and their co-conspirators against innocent victims who unwittingly come before them. They use the unbridled and awesome power of the judiciary to their end, and do so with reckless abandon regardless of their illegal extra-judicial rulings. They do so regardless that they violate Due Process by violation of Separation of Church and State and perpetrate the illegality of conspiracy while they line their pockets with the blood, misfortunes and property of their victims.

Allowing Respondent conspirators who have devastated citizens by using their positions of absolute judicial authority to conspire with others within

the judicial system must no longer be tolerated or protected by the courts of these United States. It is of extreme and great public importance that these issues be addressed. The only way remedy to achieve justice against this ongoing menace is to allow liberal civil suits against these villains. otherwise, the entire judicial system fails.

WHEREFORE, for all reasons stated. Petitioner respectfully requests this Honorable Court to carefully review this Petition pursuant to the lower court's application of law and cases cited noting that the arbitrary decision is in direct conflict with all prior decisions of the Fourth Circuit Court of Appeals and the United States Supreme Court. It must be heard in order to safeguard the Civil Rights guaranteed by the Constitution of the United States and

Bill of Rights therein. and allow Petitioner to finally, after three exasperating and traumatic years, receive justice by granting this Writ of Certiorari.

Respectfully submitted.

Jeffrey Michael Steingold, Esquire
3113 W. Marshall Street, Suite 1E
Richmond, Virginia 23230-4720
(804) 358-4818

Certificate

This is to certify that forty (40) copies of the foregoing Petition For Writ of Certiorari was mailed this 24 day of April, 1992, to William Suter, Clerk, Supreme Court of the United States, Supreme Court Building, One 1st Street, N.E., Washington, D.C. 20543-0001, and three copies to counsel for Respondents, Mark Ralph Davis, Esquire, Office of the Attorney General of Virginia, Supreme Court Building, 101 North 8th Street, Richmond, Virginia 23219, and Thomas Wackeen, 401 East Osceola, P. O. Box 66, Stuart, Florida 34995.

Jeffrey Michael Steingold,
Petitioner

APPENDIX


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IN THE CIRCUIT COURT OF THE
NINETEENTH JUDICIAL CIRCUIT IN AND FOR
MARTIN COUNTY
STATE OF FLORIDA

In Re: The Marriage of

JEFFREY MICHAEL STEINGOLD.

Husband.

and

BRENDA BEALE STEINGOLD.

Wife.

CASE NO. 88-782-FR
JUDGE PAUL B. KANAREK

_____/

FINAL JUDGMENT

THIS MATTER HAVING come on for trial on the Wife's Petitioner for Dissolution of Marriage, the Husband's Counter-Petition for Dissolution of Marriage, and the Wife's Motion for Contempt and the Court having heard the testimony of the parties and witnesses and having reviewed the evidence in the case and making the following findings of fact:

1. The marriage between the parties is irretrievably broken.

2. The Wife was a resident of the State of Florida for a period of at least six months prior to the filing of the Petition. The Husband was a resident of the State of Florida for at least six months prior to the filing of the Counter-Petitioner.

3. The trial court is the sole judge of the credibility of the witnesses. Based on the statements made by the Husband, his demeanor while testifying, and his testimony when compared with the other evidence and testimony in the case the Court determines that much of his testimony is not worthy of belief. The Husband has testified that as a result of his heart attack he has a faulty memory however it is clear that he can remember all those facts that are favorable to his position.

4. The parties were married to each other on May 1, 1964, and have two children, both of whom are adults and no longer dependant on the parties for support.

5. At the time of the marriage the Husband was a senior in college and the Wife was a freshman. The Husband began law school in 1964, and graduated from St. Mary's Law School in San Antonio, Texas in June of 1969. During the time the Husband was in law school, the Wife's parents paid the parties rent and the Wife's personal needs. The Husband's family paid for the Husband's schooling and the parties other expenses.

6. After graduation, the Husband went to work for his father's law firm in Richmond, Virginia. The parties lived in Richmond from 1970 to 1984 when

they moved to Florida. During this fourteen year period, the parties owned two homes, the last being a two-story, four bedroom home located in a professional neighborhood. The Wife's full-time duties were as housewife and mother. The Husband was the sole provider for the family. When the parties oldest child was in the third grade, the Wife converted to the Husband's religion (Judaism) and became active in the Jewish community. The parties children were raised in the Jewish faith.

7. At the time of the marriage the Wife had completed one year of college. When the parties daughter was in high school, the Wife went back to community college and as of the date of the Final Judgment has almost completed her sophomore year. When the parties moved

to Florida, the Wife investigated the possibility of continuing her education however, the nearest four year school was located in Boca Raton the Husband advised that he did not want her to travel. The Wife has no substantial skills for gainful employment other than as a teacher's aide. Her maximum gross salary as a teacher's aid was $780.76 per month.

8. While the parties lived in Virginia, the Husband owned a number of airplanes, including a Piper Arrow, two Piper Turbo-Arrows, one Aztec, one Beechcraft Baron, two Beechcraft Bonanzas, a stunt plane and a glider. The Husband also owned a number of boats including a 22-foot sailboat and a 40-foot custom Pacemaker yacht. During this time the parties traveled extensively.

9. Throughout the course of the marriage, the parties lived and enjoyed a high life style. In addition to the airplanes and boats described above, the Husband had numerous sports cars and a gun collection. The parties lived in nice homes, owned new cars, had good clothing and took three or four vacations a year. The Wife was provided a home account without budget and the Husband earned sufficient income to enable the Wife to remain in the marital home and raise the children in this lifestyle.

10. The Wife does not have the assets, income, or skills to maintain her lifestyle without the economic assistance of her Husband.

11. In 1981, the parties purchased a lot at 8512 S.E. Driftwood, Hobe Sound, in Martin County, Florida, more

particularly described as:

> Lot 24, NORTH HOBE SOUND SHORES, according to the Plat thereof recorded in Plat Book 3, Page 49, Martin County, Florida, public records.

The Husband claims a special equity in this home by virtue of monies which he paid for the real property which came from his inheritance. This property was originally purchased and titled as entireties property and remained so titled except for a short period of time when the Husband conveyed it to the Wife in an attempt to evade possible creditors. The evidence presented by the Husband concerning the monies from inheritance is not believable and the Court determines that the Husband does not have a special equity in this property.

12. The parties have stipulated that the value of the marital home is

$385,000.00. This property is encumbered by a first mortgage in the sum of $75,000.00 (which was used to finance the purchase of an office building) and a second mortgage in the sum of $10,000.00 (used for payment of the first mortgage payment during the Husband's exclusive possession of the marital home).

13. In November of 1986, the parties purchased an office building in their joint names as tenants by the entireties. The funds for the purchase of this property came from a first mortgage on the marital home which was at that time owned free and clear. This property is more particularly described as:

> Part of Lot 13, Beginning at the Southwest corner, Easterly along South line 4.57 feet, North 40, 38' 17" West to canal, Westerly 12 feet more or less to West line, South to

point of beginning, and lot 14, revised Plat of MANATEE BAY SUBDIVISION, as recorded in Plat Book 3, Page 100, Martin County, Florida, public records.

The parties have stipulated that this property has a value of $165,000.00 and is encumbered by a lien in the sum of $2,819.44 for unpaid real estate taxes.

14. In November of 1986, the Husband purchased a 1976 Hatteras boat for $58,189.33 in cash. There were substantial repairs done to the boat while it was owned by the Husband and on July 23, 1988, he conveyed title to the diesel mechanics in lieu of paying their bill.

15. On September 30, 1988, a temporary Order was entered in this case giving the Husband the temporary exclusive use and possession of the marital home. During this time the home was listed for sale. The Husband, by

his actions and statements, made it difficult for realtors to show the house. On several occasions, the Husband precluded the realtor from showing the property. The Husband also failed to properly maintain the yard, the pool, and he failed to pay the mortgage payments and homeowners insurance. The Wife had to borrow monies from her parents to maintain the Home Owners Insurance. As part of the Temporary Order the Husband was also ordered to pay the Wife the sum of $2,000.00 per month as temporary alimony, beginning October 5, 1988, and $2,000.00 in temporary attorney's fees. As of the date of the Final Hearing, the Husband was in arrears in the sum of $29,201.39.

16. The Husband is a licensed attorney with current licenses in both

the State of Virginia and the State of Florida.

17. At the time the Wife moved out of the marital residence, she took various items of personal property and furniture from the home.

18. There is extreme amount of animosity between the parties. This animosity has spilled over to the lawyers, requiring that the Court order that all pleadings be sent by registered mail, return-receipt requested.

19. The Husband's health is in controversy. The Husband suffered a heart attack on September 16, 1988, soon after the filing of the Petition for Dissolution. The Husband's physician has seen him on five occasions since his heart attack. He has testified that the Husband has no physical limitations, but that he continues to complain of angina.

The Husband's doctor is of the opinion that stress is the source of his continuing heart problems and that the only source of stress in the Husband's life is the divorce proceeding. He believes that once the divorce is completed the Husband will be relieved of this stress and should be able to return to work. The Court, upon request of the Wife, appointed a doctor to give the Husband a complete cardiac exam. This doctor verified the existence of the heart attack, but did not reach any additional conclusions regarding the Husband's future work prospects in great part because of the uncooperative nature of the Husband during this examination. Mr. Steingold advised the physician that on advice from his attorney, he would only allow the doctor to perform a physical examine from his waist up. The

Court had the opportunity to observe the Husband throughout the extensive trial and pretrial proceedings. The Husband continually interrupted his lawyer to advise her what objections to make and what questions to ask. The evidence further reflects that the Husband has driven automobiles since his heart attack, attended training classes for mediators, and worked part-time for his former law partner. The Husband has further sought employment as an attorney in Martin County. Based on all the evidence it appears that the Husband has the capacity to obtain gainful employment as an attorney, but that he has intentionally refused to return to work.

20. The Husband's father, Israel Steingold, died in Virginia in 1980, leaving a will which established a

Marital Trust for his wife and a Family Trust in the event of his wife's death. The Husband's mother died in 1981, thereby activating the Israel Steingold Family Trust. The only beneficiaries of this family trust were the Husband and his brother Lewis Steingold. The Husband's half brother, Barron Perry, was entitled to one half of his mother's estate and after extensive litigation against his half brothers he settled his claims for $450,000.00. From the evidence presented it appears that only the Family Trust still exists. The last accounting for the Family Trust (5th Accounting) was filed in 1988, and covered the period from January 1, 1987 to December 31, 1987. It should be noted that no further accountings have been filed since the filing of this divorce proceeding although two have

been due. The Fifth Accounting shows cash and/or marketable securities in the sum of approximately $990,000.00 and real estate holdings in the sum of approximately $435,000.00 for a total value in excess of 1.4 million dollars. It must be noted that the real estate is valued as of the date of Israel Steingold's death in 1980. The Court heard the testimony of D. L. McKnight, a MAI appraiser to appraised certain parcels of land which are included in the Family Trust and determined their Market Value as of July 31, 1987. These parcels included:

A. 50% interest in lots, Woodland, Virginia Beach
B. 16.25% interest in 81.707 acres, Indian River Road, Virginia Beach
C. 50% interest in 201 Rosemont Road, Lots 1-37
D. 50% interest in Lots 19-36, Block 112, E. Norfolk

The combined increase in value of these

four properties between 1980 and 1987 is $704,644.32. This increased value does not include the remaining five parcels for which the Court could find no appraisals. Lewis Steingold, trustee of the Family Trust, testified that he wasn't sure how much cash or property there was in the Trust. He further testified that since 1986, only a small parcel of real property had been sold by the Trust. Based on all of the evidence the Court determines the value of the Israel Steingold Family Trust to be between 2.1 and 3 million dollars. The Husband is entitled to fifty percent of the remaining assets of the trust, having received a portion of the trust in 1986 in the amount of approximately $230,000.00. The Husband's remaining interest is payable to him at age 50 on June 22, 1990. The Court finds the

Husband's interest in the Trust to be vested. The Wife claims that other property should be included as being a part of the Trust however this is a matter of Virginia law and the Court must rely on accounting from Virginia as to what assets are to be included. The Family Trust is a non-marital asset an can be considered only for the purpose of compliance with the temporary ordered, for payment of alimony to the Wife, income to the Husband, and payment of attorney's fees and costs in this action.

21. In September of 1987, the Husband transferred $100,000.00 which he held in an individual bank account and which had come from his father's estate to an account solely in his Wife's name. The purpose of this transfer was to evade possible creditors. This money

was eventually transferred back into the Husband's account. The evidence shows that the Husband withdrew this $100,000.00 from his account on approximately May 31, 1988. The Husband testified that he took this money in cash, put it in an envelope, took it to Miami one night, and gave it to a South American named "Tony" as an investment in Christmas trees. He stated that "Tony" was a client of his attorney, Judith Thomas, and that he received no receipt or written agreement in exchange for the cash. The Husband further testified that the Christmas tree deal went sour and that he never recovered any of his money. Tony Curtiellas contradicted the Husband's testimony and stated that he had never invested any money for the Husband. The Husband's story is so incredulous as to be beyond

belief. The check which was used to withdraw the funds from the Husband's account (Petitioners #25 in evidence) shows that it was endorsed by the Husband "For Deposit Only". The Court believes that the Husband has diverted this money and hidden its location from the Court.

22. The husband is the owner of a 1987 Porsche 911, vehicle identification number WP0EB0918HS161868 which he purchased during the course of the marriage. The car was always titled solely in the Husband's name and has a value of $33,000.00 as based on the Husband's financial affidavit. At the time of the filing of this action this car was owned free and clear. On September 30, 1988, the Court entered a Temporary Order which enjoined the parties from disposing of or concealing

any personal assets in their possession or to dispose or conceal of any assets valued in excess of $500.00 without consent of the other party or a Court order. On September 19, 1988, the Husband executed an Employment Agreement with his law partner for representation in the divorce proceedings. This agreement (Respondents #35 in evidence) was also signed by Amy Steingold, the parties daughter. Neither the Employment Agreement nor the signature of Amy Steingold contained any language which would make Amy Steingold a guarantor of the attorney fees. On October 14, 1988, the Husband executed a promissory note to Amy Steingold in the sum of $40,000.00 secured by a lien on his then unencumbered Porsche. A lien was also placed on the title to the car. On December 31, 1989, Amy Steingold

executed an assignment of the $40,000.00 note and mortgage to Judith Thomas, counsel for the Husband. This assignment indicated that it would serve as a release of Amy Steingold's personal guarantee of attorney fees however as stated previously, the original agreement did not include a personal guarantee by Amy Steingold. The Court finds that these actions by the Husband are an attempt to perpetrate a fraud against the Wife by encumbering one of the only assets of the husband that was free and clear at the time of the filing of this action. The Husband's actions constitute a violation of the Court's Temporary Order by attempting to dispose of this asset.

23. On November 20, 1989, the Court found the Husband in contempt for concealing the Porsche in violation of

the Temporary Order. The Court ordered the Husband to return the car tc the former marital home and to make it available to the Wife for inspection. The evidence reflects that at least as early as September 20, 1989, the Porsche was being kept in Virginia (Respondents #56 in evidence). On December 26, 1989, following a hearing, the Court modified the contempt Order of November 20th and required that the Husband not drive the Porsche. There is no evidence in the record to indicate that the husband was without transportation while the Porsche was in Virginia for several months. The Wife subsequently moved to hold the Husband in contempt for driving the car and the Court ruled that this matter would be heard as part of the final hearing. Based on the evidence presented the Court finds that the

husband willfully drove the Porsche in violation of the Court's order of December 26, 1989.

24. The Court finds that the Wife is in need of and entitled to permanent, periodic alimony so that she may support herself in a lifestyle comparable with that enjoyed by the parties during the marriage. The Husband has the ability to support himself through the practice of law and he is also entitled to substantial income from his 50% interest in the Family Trust. On June 22, 1990, the Husband has the right to one half of the assets of the Family Trust. Because of the extreme animosity between the parties, the Husbands repeated willful failure to comply with the prior orders of the Court, and the abandonment of his support obligation the Court determines that lump sum alimony payment in lieu of

permanent period payments is necessary and proper in this case.

25. At the time the parties separated they divided certain items of furniture and personal property. Based on the evidence presented at the final hearing the Court cannot determine the relative values of the property taken by each party and as result cannot determine that further division of this property is appropriate or equitable.

It is therefore, ORDERED AND ADJUDGED as follows:

A. The marriage between the parties is hereby dissolved and the parties are hereby freed from the bonds of matrimony.

B. The Husband shall, within 30 days of the entry of this Final Judgement, convey to the Wife as lump sum alimony all of his right title and

interest in the former marital home located at 8512 S.E. Driftwood Drive, Hobe Sound, Martin County, Florida, more particularly described as:

> Lot 24, NORTH HOBE SOUND SHORES, according to the Plat thereof recorded in Plat Book 3, Page 49, Martin County, Florida, public records.

The Wife shall be solely responsible for all payments on the first and second mortgage and any other liens encumbering this property. The Wife, her attorneys, or her agents shall make a complete inspection of the former marital home within 48 hours of the entry of this Order. The Sheriff of Martin County or one of his appointed Deputies is hereby directed to stand by while the inspection is completed. The Husband shall not in any manner impede this inspection.

C. The Husband shall within 30

days of the entry of this Final Judgement convey to the Wife as lump sum alimony all of his right title and interest in his former office located in Martin County, Florida, more particularly described as:

> Part of Lot 13, Beginning at the Southwest corner, Easterly along South line 4.57 feet, North 40, 38' 17" West to canal, Westerly 12 feet more or less to West line, South to point of beginning, and lot 14, revised Plat of MANATEE BAY SUBDIVISION, as recorded in Plat Book 3, Page 100, Martin County, Florida, public records.

The Wife shall be solely responsible for all liens encumbering this property. The Wife, her attorneys, or her agents shall make a complete inspection of this property within 48 hours of the entry of this Order. The Sheriff of Martin County or one of his appointed Deputies is hereby directed to stand by while the inspection is completed. The Husband

shall not in any manner impede this inspection.

D. The Wife shall have the exclusive possession of the former marital home and the office no later than 30 days from the entry of this Final Judgement.

E. The Husband shall be solely responsible for any repairs to the former marital resident (other than normal wear and tear) which are necessary to bring it back into the condition it was in June of 1988. The Husband shall further be solely responsible for any damage caused by him to either the former marital residence or the office which occurs between the Wife's inspection and the date the Wife enters into possession of the premises and the Court hereby retains jurisdiction to determine any such

damage.

F. The Husband shall remove all of the furniture and his personal property from the former marital home and the office no later than 25 days from the date of the entry of this Order. The Husband shall not remove any drapes, window coverings, fixtures, or appliances from either property without the written consent of the Wife or an Order from this Court.

G. A judgement is hereby entered against Jeffrey Michael Steingold in favor of Brenda Beale Steingold for past due support and attorney fees as required under the terms of the Temporary Order in the sum of $29,201.39, with interest at the rate of 12% per annum, for which let execution issue. The Husband is further Ordered to instruct the trustee of the Family

Trust to pay this judgement on or before June 22, 1990, and said payment shall be made directly to the Wife.

H. The Wife is hereby awarded all the Husband's right, title, and interest in the 1987 Porsche, free and clear of any encumbrances. The Husband shall deliver the Porsche to a location in Martin County at the Wife's discretion. Said delivery shall be made within twenty-four (24) hours after notice of the location is given to the Husband's attorney. Any costs of repair to the vehicle to bring it back to first class mechanical and body condition shall be at the responsibility of the husband and the Court hereby retains jurisdiction to enforce this Order.

I. As additional lump sum alimony the Husband shall pay to the Wife the sum of $100,000.00 which shall be a lien

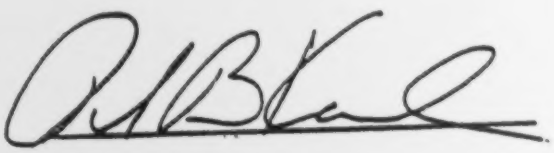
against the Husband's interest in the Family Trust. The Husband shall, within five days of the date of this Order, file with the Trustee a certified copy of this Order and shall execute all documents necessary to effect this provision.

J. The Wife shall be entitled to the 1988 Toyota, jewelry, furniture and furnishings in her possession. The Husband shall be entitled to the Boston Whaler, his office equipment and furniture, his gun collection, and the remaining furniture and personal property located in the former marital home.

K. The Wife shall be entitled to reasonable attorney's fees and costs in bringing this action and jurisdiction is hereby retained for purpose of setting said fees and costs.

L. This Court hereby enters a mutual permanent restraining order against both of the parties from coming about the other party from this day forward, including but not limited to personal calls and visits to the others residence, temporary dwelling, office, and any other location where either party may be present.

DONE AND ORDERED in Chambers at Stuart, Martin County, Florida, this 29th day of May, 1990.



PAUL B. KANAREK
Circuit Judge

cc: W. Thomas Wackeen, Esq.
Judith Thomas, Esq.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

JEFFREY MICHAEL STEINGOLD,
Plaintiff,

V.

DAVID HARPER, et al.,
Defendants.

Civil Action No. 3:91CV00262

MEMORANDUM AND ORDER

This matter is before the Court on motions to dismiss from every defendant except Michael E. Beale, who was granted until August 26, 1991 to respond to this complaint. For the reasons stated below, all of the defendants' motions will be granted, and Beale also dismissed sua sponte.

I

This action is virtually identical to one previously dismissed by this Court for improper venue and lack of personal jurisdiction. Steingold v.

Harper ("Steingold I"), Civil Action No. 3:91CV00012, mem. op. and final order (E.D. Va. April 25, 1991). The Court may thus take judicial notice of the records of that case. See United States Fidelity & Guar. Co. v. Lawrenson, 334 F.2d 464, 467 (4th Cir.), cert. denied, 379 U.S. 869 (1964). The Court chooses to do so, and will only briefly review here the gravamen of the present complaint, and the ways it differs from Steingold I.

This action, liked Steingold I, arises because plaintiff seeks to avoid the consequences of a divorce decree and judgment entered against him in the state of Florida. Defendants include apparently every Florida state judge who had anything to do with those proceedings, as well as Steingold's now ex-wife, Brenda Beale Steingold, and her

Florida divorce attorney, W. Thomas Wackeen.

This complaint also names as defendants David G. McGunegle, Michael L. Fox and Gene Goldin, for their participation in Florida state bar disciplinary proceedings which arose from plaintiff's conduct in the divorce case. These three, Brenda Steingold, Wackeen, and one Florida judge, George W. Hersey, were not named in Steingold I.

Here, as in Steingold I, plaintiff charges defendants with individually and through a conspiracy depriving him of his civil rights, in violation of 42 U.S.C. Section 1983, and violating the Racketeer Influenced & Corrupt Organizations Act (RICO), 18 U.S.C. Section 1964(c). He also apparently asserts nebulous pendent state law

claims, including defamation and intentional infliction of emotional distress, against several defendants.

Essentially, plaintiff alleges that his wife and Wackeen obtained the divorce decree and judgment only by unlawfully conspiring with the defendant judges. The judges and defendant Beale then conspired to revoke plaintiff's license to practice law in Florida. Parties to the "disbarring" portion of the conspiracy also included: (1) Fox, a Florida Bar board member who testified against Steingold during the divorce proceedings; (2) Goldin, also a Florida Bar board member and an accountant "who's (sic) firm testified at the trial;" and (3) David McGuenegle, attorney and agent of the Florida Bar, who initiated the bar hearing "under the pretense" of a complaint to the bar by

Beale.(footnote 1)

There is only one defendant alleged to have taken any action outside Florida or North Carolina. That is Brenda Steingold. who cause the Florida divorce judgment to be domesticated in the Commonwealth of Virginia. See Attachments to Mem. in Support of Motion Against Dismissal (Steingold II), filed 7-15-91.(footnote 2)

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1-Beale is a North Carolina state judge and the sister of Steingold's ex-wife. According to evidence plaintiff submitted in Steingold I, Beale wrote the Florida Bar a letter in July 1990. That letter expressed Beale's surprise at Steingold's "outrageous" conduct in and out of court, as described in more detail by the Florida court order of dissolution of marriage.

2-The amended complaint alleges that defendant Wackeen filed the judgment in Virginia. Amended Complaint paras. 121-22. Plaintiff's own evidence contradicts this, as the attachments consist of Virginia state court pleadings signed and submitted by a Virginia Beach attorney, not Wackeen.

This complaint concludes with nine "claims for relief." Steingold seeks to hold defendants jointly and severally liable for over $11 million in compensatory and punitive damages. He also asks the Court to grant injunctive relief as follows: (1) restrain the Virginia Circuit Court of the City of Virginia Beach from hearing any claim against plaintiff based on the allegedly fraudulent Florida divorce judgment; (2) vacate all Florida state court orders pertaining to his divorce proceedings, and enjoin defendants from issuing or enforcing any orders of bodily attachment or arrest against plaintiff; and (3) enjoin the Florida Bar and its members from engaging in further bar disciplinary proceedings or actions

against him.(footnote 3)

II

Each moving defendant has sought dismissal on virtually every ground possible. Defendants Wackeen and Brenda Steingold also move for sanctions pursuant to Rule 11 of the Federal Rules of Civil Procedure.

The Court notes that Steingold I was dismissed in part on personal jurisdiction grounds. That ruling was not appealed, and properly has a res judicata effect as to those parties common to both suits. 18 C. Wright, A.

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3-Even if the Court had jurisdiction over the Florida parties, abstention principles would compel it to dismiss claims arising out of the disciplinary proceedings. See, e.g., Partington v. Gedan, 880 F.2d 116 (9th Cir. 1989), vacated in part on other grounds, 110 S. Ct. 3265 (1990); Hensler v. District Four Grievance Comm., 790 F.2d 390 (5th Cir. 1986); Cogswell v. Quinn, 667 F. Supp. 1422 (D. Colo. 1987).

Miller & E. Cooper, Federal Practice and Procedure Section 4430 at 292 & n.5 (1981 & Supp. 1991) (collecting cases); see Insurance Corp. of Ireland, Ltd. v. Compagnie des Bauxites de Guinee, 456 U.S. 694, 706-07 (1982).

The Court discusses all grounds for its ruling in this case, in an effort to make its rationale absolutely clear, and to address the posture of not named in Steingold I.

Complaint does not state RICO claims

RICO authorizes any person injured in his business or property by reason of a violation of 18 U.S.C. Section 1962 to sue for treble damages and attorney's fees. 18 U.S.C. Section 1964(c).

At the very least, a plaintiff seeking civil RICO relief must allege and show conduct of an enterprise through a pattern of racketeering

activity which causes injury to plaintiff's business or property. McMurtry v. Brasfield, 654 F. Supp. 1222, 1224 (E.D. Va. 1987) (quoting Sedima, S.P.R.L. v. Imrex Co., 473 U.S. 479 (1985)).

A "pattern of racketeering activity" exists only if there is a sufficient "relatedness" of the alleged racketeering activities, and sufficient threat of continued criminal activity posed by the predicates. H.J. Inc. v. Northwestern Bell Tel. Co., 109 S. Ct. 2893, 2900 (1989). In layman's terms, RICO does not support civil damages for isolated activities directed against a single victim.

The "continuity" element described in H.J. Inc. is absent here, because plaintiff only alleges a narrow category of action by defendants, directed toward

a single alleged goal (depriving plaintiff of his property and livelihood), and a single alleged victim (plaintiff himself). See Menasco, Inc. v. Wasserman, 886 F.2d 681, 684 (4th Cir. 1989) (quoting International Data Bank, Ltd. v. Zepkin, 812 F.2d 149, 155 (4th Cir. 1987)); see also Parcoil Corp. v. Nowsco Well Serv., Ltd., 887 F.2d 502, 504 (4th Cir. 1989); McMurtry, 654 F. Supp. at 1226.

Therefore, all purported RICO claims must be dismissed.

Judges and Florida Bar officials absolutely immune

State judges are absolutely immune from civil money damages for judicial acts except those done "in a clear absence of all jurisdiction." Stump v. Sparkman, 435 U.S. 349, 357 (1978).(footnote 4-next page)

This immunity extends to non-judicial persons sued for their quasi-judicial activities. See Butz v. Economou, 438 U.S. 478, 512-17 (1978). State bar officials are commonly afforded such immunity. See, e.g., Clulow v. Oklahoma, 700 F.2d 1291, 1298-99 (10th Cir. 1983), overruled on different grounds by Garcia v. Wilson, 731 F.2d 640 (10th Cir. 1984), aff'd., 471 U.S. 261 (1985); Rosenfeld v. Clark, 586 F. Supp. 1332, 1339-41 (D. Vt. 1984), aff'd., 760 F.2d 253 (2d Cir. 1985). The general rule should apply

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4-Here, as in Steingold I, plaintiff insists that the Florida judges acted without jurisdiction, because the divorce judgment ordered him to redirect payments from a Virginia trust to his ex-wife. As previously stated in Steingold I, mem. order of 5-16-91, this was clearly a judicial action consistent with the Florida court's personal jurisdiction over plaintiff.

here because of the Florida Bar defendants' activities at issue. See Fla. Sup. Ct. R. 3-3.1, 10-8.1 (designating certain Florida Bar officials and staff as agents of court, and expressly stating their absolute immunity).

The immunity is not abrogated by allegations of conspiracy. Dennis v. Sparks, 449 U.S. 24, 27 (1980); Moses v. Parwatikar, 813 F.2d 891, 892 (8th Cir.), cert. denied, 484 U.S. 832 (1987); Cok v. Cosentino, 876 F.2d 1, 3 (1st Cir. 1989); Ashelman v. Pope, 793 F.2d 1072, 1078 (9th Cir. 1986) (en banc); Dykes v. Hosemann, 776 F.2d 942, 946 (11th Cir. 1985); Holloway v. Walker, 765 F.2d 517, 523 (5th Cir.), cert. denied, 474 U.S. 1037 (1985).

Therefore, the complaint must be dismissed for failing to state a claim

for money damages from any of the Florida state judges or bar officials.

The Court lacks personal jurisdiction

This Court has no jurisdiction over out-of-state defendants unless service on them is authorized by a federal statute or the long-arm statute of this state. Omni Cap. Int'l v. Rudolf Wolff & Co., Ltd., 108 S. Ct. 404, 410 (1987).

Plaintiff relies in part on 18 U.S.C. Section 1965(b), a statute authorizing nationwide service of process where "the ends of justice" require it, in RICO actions. That statute is inapplicable, because plaintiff states no viable RICO claims. It would be inapplicable in any case. See Butcher's Union Local No. 498 v. SDC Investment, Inc., 788 F.2d 535, 539 (9th Cir. 1986) (citing Farmers Bank of the State of Del. v. Bell Mortgage Corp.,

577 F. Supp. 34, 35 (D. Del. 1978)).

The Virginia long-arm statute authorizes personal jurisdiction over a person only based on acts and circumstances enumerated in the statute. Va. Code Ann. Section 8.01-328.1(B) (Cum. Supp. 1991). Plaintiff relies on three of those acts and circumstances for personal jurisdiction in this case:

> 1. Transacting any business in this Commonwealth;
>
> ...
>
> 3. Causing tortious injury by an act or omission in this Commonwealth; [and]
>
> 4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in this Commonwealth[.]

Id. Sections 8.01-328.1(A)(1), (3) and (4).

With the exception of Brenda Steingold, no defendant is even alleged

to have done anything that would subject him to the personal jurisdiction of this Court. Plaintiff has thus failed to establish, or even plead, a prima facie case of personal jurisdiction. See, e.g., Raymond Colesar, Glaspy & Huss, P.C. v. Allied Capital Corp., 761 F. Supp. 423, 426 (E.D. Va. 1991).

Nor has plaintiff pled or shown that defendants, other than Brenda Steingold, purposely availed themselves of the rights and obligations of Virginia law. See, e.g., First American First, Inc. v. Nat'l Ass'n of Bank Women, 802 F.2d 1511, 1515-16 (4th Cir. 1986) (discussing International Shoe Co. v. Washington, 326 U.S. 310 (1945) and Burger King Corp. v. Rudzewicz, 471 U.S. 462 (1985)). An exercise of personal jurisdiction would thus be unconstitutional. See id.

The Court recognizes the support for a "conspiracy theory" of personal jurisdiction, in which jurisdiction is liberally found over nonresidents alleged to have conspired with residents, or with other nonresidents who conducted substantial activity in the forum state. See, e.g., Singer v. Bell, 585 F. Supp. 300, 302-03 & n.3 (S.D.N.Y. 1984); Gemini Enterps., Inc. v. WFMY Television Corp., 470 F. Supp. 559, 564-65 & n.4 (M.D.N.C. 1979).

This Court shall not adopt this theory. No general federal theory of this type exists. Davis v. A&J Elecs., 792 F.2d 74, 76 (7th Cir. 1986). Plaintiff cites no case law indicating that Virginia law recognizes such a theory.

In any case, even this theory requires more than "the bland assertion

of conspiracy or agency." Plaintiffs relying on this doctrine must instead plead and offer prima facie evidence of a conspiracy and of definite connections between the alleged nonresident conspirators and the forum. See Singer, 585 F. Supp. at 302-03; see also Ecclesiastical Order of the Ism of Am, Inc. v. Chasin, 845 F.2d 113, 116 (6th Cir. 1988) ("[T]otally unsupported allegations of conspiracy [with resident defendants] cannot constitute sufficient contacts ... to justify an exercise of personal jurisdiction.") (citation omitted); Thomas v. Kadish, 748 F.2d 276, 282 (5th Cir. 1984) (conclusory allegations of conspiracy and its effects on forum insufficient to show minimum contacts), certf. denied, 473 U.S. 907 (1985).

Whatever claims remain against

defendants other than Brenda Steingold must thus be dismissed. for lack of personal jurisdiction over the defendants.

No state action or state actor

Federal civil rights law does not generally allow recovery of damages against a private party for allegedly false testimony given in a judicial proceedings. because his testimony is not an act "under color of state law." as required by 42 U.S.C. Section 1983. Briscoe v. LaHue. 460 U.S. 325. 329-30 (1983).

Similarly. a civilian's acts of filing suit and testifying at trial. no matter how wrongful or meritless they are alleged to be. do not rise to the level of state action or involvement of a state actor. Taylor v. Nichols. 558 F.2d 561. 564 (10th Cir. 1977) (citing

Grow v. Fisher, 523 F.2d 875 (7th Cir. 1975)); Anderson v. Glismann, 577 F. Supp. 1506, 1510 (D. Colo. 1984).

There are a surprising number of reported cases addressing claims similar to the ones now before the Court. Two are most instructive. See Donlan v. Smith, 662 F. Supp. 352 (D. Md. 1986), aff'd, 820 F.2d 1219 (1987); Thompson v. Aland, 639 F. Supp. 724 (N.D. Tex. 1986).

In Thompson, the plaintiff brought civil rights claims against his ex-wife's attorney and the state judge who, at the attorney's motion, issued contempt orders and had the plaintiff jailed for failure to follow other orders issued incident to a divorce action. the court held that the lawyer was not a state actor and thus not subject to a Section 1983 claim.

Thompson, 639 F. Supp. at 728. The plaintiff's conclusory allegations of conspiracy between the lawyer and judge did not otherwise make the lawyer a state actor. Id. at 729; see also Weathers v. Ebert, 505 F.2d 514, 517 (4th Cir. 1974) (specific averments of "communication, consultation, cooperation or consent" required to make individual liable for others' acts), cert. denied, 424 U.S. 975 (1976); Steingold I, mem. op. at 7 n.3 (citing cases for proposition that conspiracy requires particular pleading).(footnote 5)

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5-This complaint arguably pleads sufficient communications to support finding a conspiracy between Brenda Steingold, Beale and Wackeen, all private defendants. See Complaint at paras. 93-97. It does not plead sufficient facts to show a conspiracy between these defendants and state actors, or even between the state actors themselves.

In Donlan, plaintiff brought a civil rights action against his former wife and her attorney, after she caused him to be arrested for failure to purge himself of contempt by paying her $1,000 in overdue alimony. The court held the wife and her attorney were not state actors for Section 1983 purposes. The court also noted that res judicata principles barred the husband from litigating the claim against the wife, in that he could have but never did challenge the validity of the underlying contempt order and subsequent jailing on Section 1983 or other grounds.(footnote 6) Donlan, 662 F. Supp. at 359-60; see

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6-Plaintiff insists he cannot obtain a fair trial or appeal on his claims anywhere in Florida. He has submitted affidavits from three people stating, "I am a resident of either Martin, St. Lucie, or Indian River County and that such residence is inclusive within the 19th Judicial Circuit of the State of

also Gilbert v. Bach, 697 F. Supp. 202, 203 (D. Md. 1988) (claim and issue preclusion principles bar claim arising out of same factual scenario litigated previously), aff'd, 887 F.2d 1079 (4th Cir. 1989).

Therefore, plaintiff is barred by res judicata (footnote 7) from raising the instant claims against Brenda Steingold, under the Donlan rationale.

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Florida. It is my belief that Mr. Jeffery [sic] M. Steingold cannot receive a fair and impartial trial within the jurisdiction wherein the Judges whom he is suing preside due to the political influences of the Judges." . The Court knows of no reason why such allegations compel it to hear a case involving parties over whom it has no jurisdiction, and a complaint which states no claim for relief.

7-Ample authority exists for this Court to raise res judicata sua sponte. See Gilbert v. Bach, 697 F. Supp. 202, 204 (D. Md. 1988) (citing 18 C. Wright, A. Miller & E. Cooper, supra, Section 4405 at 33 n.3), aff'd, 887 F.2d 1079 (4th Cir. 1989).

Plaintiff also fails to state a claim against any of the private defendants, under the Thompson rationale. (footnote 8)

Sanctions

A party's signature of pleadings is his certificate that he has read the pleading, and that:

> to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

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8-To the extent this Court is dismissing for failure to state a claim for relief, Fed. R. Civ. P. 12(b)(6), this order is a judgment on the merits. Federated Dep't Stores, Inc. v. Moitie, 452 U.S. 394, 399 n.3 (1981). See generally 18 C. Wright, A. Miller & E. Cooper, supra, Section 4439 at p. 358 & n.11 ("[D]ismissal for failure to state a claim precludes a second action that presents the same claim through a better complaint.").

> ... If a pleading, motion or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

Fed. R. Civ. P. 11.

Unless sanctions are obviously unwarranted, the trial court should engage in a somewhat detailed review of the circumstances supporting its sanctions decision. See Miltier v. Beorn, 896 F.2d 848, 855 (4th Cir. 1990). Based on the circumstances below, the Court believes that some sanction is required.

This case is very similar to Steingold I. It names the same parties and identifies the same allegedly

wrongful actions, all of which took place far from Virginia. The new parties, with the exception of Brenda Steingold, are not alleged to have done anything in Virginia. The judicial and quasi-judicial parties are absolutely immune from money damages. This case, like Steingold I, is grounded on such flimsy allegations of conspiracy as to be partially dismissed on that ground alone. The Court brought all of these failings to plaintiff's attention in Steingold I, although basing its decision on only two grounds.

Plaintiff's pleadings indicate he was, and perhaps still is, a licensed attorney in at least one state. He has ignored basic legal doctrines of personal jurisdiction, res judicata and judicial immunity not just once, but twice, even after the benefit of full

discussion of these doctrines in defendants' pleadings and in orders of this Court. His arguments against the application of these doctrines are, on the whole, without merit, objectively unreasonable, and not made in good faith. See, e.g., In re Kunstler, 914 F.2d 505, 517 (4th Cir. 1990).

Plaintiff's actions as a whole also objectively manifest an improper purpose. See id. at 519 ("Repeated filings [and] the outrageous nature of the claims made" indicate improper purpose); Schwarz, Sanctions Under the New Federal Rule 11 -- A Closer Look, 104 F.R.D. 181, 196 (1985) ("Improper purpose may be manifested by excessive persistence in pursuing a claim or defense in the face of repeated adverse rulings").

Having found that plaintiff's

claims as a whole are not well grounded in law, and are interposed for an improper purpose, (footnote 9) the Court considers the nature and degree of the appropriate sanction.

The primary purpose of Rule 11 sanctions is to deter future litigation abuse. Kunstler, 914 F.2d at 522. Other purposes include compensating victims of the Rule 11 violation, punishing the violator, streamlining court dockets, and facilitating court management. Id.

Generally, the least severe sanctions adequate to serve these purposes should be imposed. Cabell v. Petty, 810 F.2d 463, 466 (1987); accord

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9-The Court need not address the "well grounded in fact" prong of Rule 11, because the rule expressly authorizes sanctions for violation of any of its requirements.

Schwarz, supra, at 201 & n.67. A reprimand from the Court often suffices for first violations. Schwarz, supra, at 201. Where monetary sanctions are imposed, the Court must consider the reasonableness of the fees for other parties' counsel, the minimum amount required to deter, the sanctioned party's ability to pay, and the severity of the Rule 11 violation. Kunstler, 914 F.2d at 523.

The parties have not argued about or offered any evidence of factors pertinent to a proper consideration of monetary sanctions, and the Court believes further disputes over such concerns would only serve to extend the very litigation which sanctions are supposed to deter. See Kunstler, 914 F.2d at 523-24.

The Court also notes that the

motions to dismiss in this action largely duplicate the efforts of Steingold I, where the Court denied motions for sanctions; one of the new defendants in this action, Brenda Steingold, at least appears subject to the Court's personal jurisdiction.

Therefore, the Court will in this case offer only the following reprimand and admonition as a sanction:

> It is the Court's opinion that: (1) plaintiff has failed to state a claim for relief under 42 U.S.C. Section 1983 or RICO; (2) that plaintiff has not met his burden of establishing defendants other than Brenda Steingold are within this Court's jurisdiction; (3) that plaintiff's complaints have not been well grounded in the law and have been issued for improper purposes; and (4) that this Court may dismiss sua sponte any future complaints similar to the ones already dismissed, see supra note 7. Absent reversal on appeal, the Court will act in accordance with this opinion.

III

For the reasons stated above, the defendants' motions to dismiss are GRANTED. The Court dismisses the complaint as against Michael Beale sua sponte, based on its inherent authority to dismiss repetitive suits.

And it is SO ORDERED.

James R. Spencer

UNITED STATES DISTRICT JUDGE

Date: 6 AUG 1991

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

JEFFREY MICHAEL STEINGOLD,
Plaintiff,

V.

DAVID HARPER, et al.,
Defendants.

Civil Action No. 3:91CV00262

FINAL ORDER

For the reasons stated in the accompanying memorandum and order, this action is DISMISSED and judgment ENTERED for all defendants on all claims.

Plaintiff is reminded that this is a final order subject to appeal, upon notice filed within 30 days of the date on this order as prescribed by the Federal Rules of Appellate Procedure.

And it is SO ORDERED.

James R. Spencer
UNITED STATES DISTRICT JUDGE

Date: 6 AUG 1991

UNPUBLISHED

UNITED STATES COURT OF APPEALS
For the Fourth Circuit

Jeffrey Michael Steingold,
Plaintiff-Appellant,

v.

David Harper; John E. Fennelly; William L. Hendry; Paul B. Kanarek; C. Pheiffer Trowbridge; Michael Beale; Martha Warner; Brenda Beale Steingold; Thomas Wackeen; George W. Hersey; David G. McGuneale; Michael L. Fox; Gene Goldin,
Defendants-Appellees.

No. 91-1699

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Appeal from the United States District Court for the Eastern District of Virginia, at Richmond.
James R. Spencer, District Judge.
(CA-91-262)

Submitted: October 28, 1991

Decided: November 19, 1991

Before ERVIN, Chief Judge, SPROUSE, Circuit Judge, and CHAPMAN, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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COUNSEL

Jeffrey Michael Steingold, Appellant, Pro Se. Mark Ralph Davis, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia; Rivers Henderson Buford, Jr., FLORIDA DEPARTMENT OF LEGAL AFFAIRS, Tallahassee, Florida; Michael Beale, Wadesboro, North Carolina; Ransom Wooten Etheridge, ETHERIDGE & LAMBERT, Virginia Beach, Virginia; Thomas Wackeen, Stuart, Florida; Charles Frederick Witthoefft, HIRSCHLER, FLEISCHER, WEINBERG, COX & ALLEN, Richmond, Virginia, for Appellees.

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Unpublished opinions are not binding precedent in this circuit. See I.O.P. 36.5 and 36.6

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OPINION

PER CURIAM:

Jeffrey Michael Steingold appeals from the district court's order dismissing Steingold's civil action arising out of his dissatisfaction over a divorce decree and judgment entered in the state of Florida. Our review of the record and the district court's opinion discloses that this appeal is without merit. Accordingly, we affirm on the reasoning of the district court. Steingold v. Harper, No. CA-91-262 (E.D. Va. August 6, 1991). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the Court and argument would not aid the decisional process.

AFFIRMED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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No. 89-5687

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UNITED STATES OF AMERICA,
Plaintiff - Appellee,

versus

JAMES O. BAKKER,
Defendant - Appellant.

---

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Robert D. Potter, Chief District Judge. (CR-88-205-C)

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Argued: October 30, 1990
Decided: February 11, 1991

Before PHILLIPS AND WILKINSON, Circuit Judges, and BUTZNER, Senior Circuit Judge.

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Affirmed in part, vacated in part, and remanded by published opinion. Judge Wilkinson wrote the opinion, in which Judge Phillips and Senior Judge Butzner joined.

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ARGUED: Don Ervin, Houston, Texas; Alan M. Dershowitz, Cambridge, Massachusetts; Brian William Wice, Houston, Texas, for Appellant. Deborah M. Smith, UNITED

STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Appellee. ON BRIEF: Harold Bender, BENDER & MATUS, Charlotte, North Carolina; Nathan Dershowitz, Cambridge, Massachusetts, for Appellant. Christopher L. Varner, Sara Criscitelli, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C.; Thomas J. Ashcraft, United States Attorney, Jerry W. Miller, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

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"... Bakker's sentence was proper, therefore, as long as the court did not abuse its discretion within pre-Guidelines law.

B.

Therein lies the basis for Bakker's final challenge to his sentence. During sentencing, the judge stated of Bakker: "He had no thought whatever about his victims and those of us who do have a religion are ridiculed as beings saps from money-grubbing preachers or priests." Bakker contends that these comments reveal that the trial judge

abused his discretion and violated due process by factoring his own sense of religiosity and victimization into the sentence he imposed on Bakker.

. . .Sentencing discretion, however, must be exercised within the boundaries of due process. See, e.g., Gardner v. Florida, 430 U.S. 349, 358 (1977) (plurality opinion); United States v. Safirstein, 827 F.2d 1380, 1384-87 (9th Cir. 1987). In this case, the trial judge exceeded those boundaries. Courts have held that sentences imposed on the basis of impermissible considerations, such as a defendant's race or national origin, violate due process. See, e.g., United States v. Borrero-Isaza, 887 F.2d 1349, 1352-57 (9th Cir. 1989); United States v. Gomez, 797 F.2d 417, 419 (7th Cir. 1986) (sentencing more harshly based on nationality or alienage

"obviously would be unconstitutional.")
While these cases focused on a defendant's characteristics, we believe that similar principles apply when a judge impermissibly takes his own religious characteristics into account in sentencing.

Our Constitution, of course, does not require a person to surrender his or her religious beliefs upon the assumption of judicial office. Courts, however, cannot sanction sentencing procedures that create the perception of the bench as a pulpit from which judges announce their personal sense of religiosity and simultaneously punish defendants for offending it. Whether or not the trial judge has a religion is irrelevant for purposes of sentencing. Regrettably, we are left with the apprehension that the imposition of a

lengthy prison term here may have reflected the fact that the court's own sense of religious propriety had somehow been betrayed. In this way, we believe that the trial court abused its discretion in sentencing Bakker. Consequently, the sentence is vacated and the case is remanded for re-sentencing. This resentencing will be carried out by a different district judge to ensure that the ends of due process are achieved. See, e.g., United States v. Diamond, 561 F.2d 557, 559 (4th Cir. 1977)."

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)
SUPREME COURT CASE NO. 77,912
FLORIDA BAR CASE NO. 91-30,038(19A)

THE FLORIDA BAR,

Complainant,

vs. EXCERPT

JEFFREY M. STEINGOLD

Respondent.
_____/

- - -

COURT REPORTER'S TRANSCRIPT OF
PROCEEDINGS BEFORE
THE HONORABLE KAREN L. MARTIN

- - -

West Palm Beach, Florida
Friday, March 6, 1992
9:07 a.m. - 5:25 p.m.

APPEARANCES:

DAVID G. MCGUNEGLE, ESQUIRE
The Florida Bar
880 North Orange Avenue
Suite 200
Orlando, Florida 32801-1085
On behalf of the Complainant

JEFFREY M. STEINGOLD, ESQUIRE, PRO SE
(VIA TELEPHONE)
3113 West Marshall Street
Suite 1E
Richmond, Virginia 23230

" Now, Judge, you are of the Jewish religion, are you not?

A. Yes, sir.

Q. Are you a Jew?

A. Yes, sir.

... Q. It says there that "When the parties' oldest child was in the third grade, the Wife converted to the Husband's religion (Judaism) and became active in the Jewish community. The parties' children were raised in the Jewish faith." Isn't that correct?

A. Yes, sir.

Q. Thank you.

Is it normal, sir, to bring your religion into a final decree such as this?

... THE WITNESS: The answer is yes, in

this circumstance. If I can explain, this was a relatively long-term marriage. The wife was seeking alimony for her contributions. The evidence reflected that the wife during the marriage changed her religion to the husband's; that she raised the children in her husband's religion, and I considered those to be contributions she made toward the marriage, and those factors that I think --...I think that's a contribution she made to the marital relationship.

... Q. Okay. Why then in your final order did you indicate that the trust had vested?

A. Because I believed under the law the trust had vested.

Q. Let me ask you this. Was the trust a Florida trust or a Virginia trust?

A. I believe it was a Virginia trust...

... Q. Was the will a Virginia trust or a Florida trust?

A. ...I believe that this was probated and the trusts were in Virginia and I think Virginia Beach...

... Q. How about the res. trust res. was that in Virginia or was that elsewhere?

... A. I really don't know whether they were in Virginia, Maryland, Washington...

Q. But they weren't in Florida, were they?

A. No, sir.

Q. The beneficiaries, they were not in Florida either, were they?

A. Well, you were and I had personal jurisdiction over you.

Q. You had personal jurisdiction

over me. but did you have jurisdiction over the trust?

A. I never ordered the trust to do anything.

... Q. You determined that the trust had vested?

A. Yes, sir. and I made that finding in the final judgment.

Q. When I became fifty years of age on June twenty-second, 1990; isn't that correct?

A. Whatever the final judgment reflects as to whether I said there was a particular date it vested.

Q. Uh-huh. And yet I was not yet fifty years old then, was I, when your final decree was made; isn't that correct? Isn't that correct?

A. Well, if your birthday -- if you turned fifty on June the twenty-second, the final judgment is dated May

the -- it looks like the twenty-ninth.

... Q. Do you recall the testimony of Mr. Rogers, the CPA, the only CPA, the only expert in the case as far as the trust is concerned?

... Q. Let me refresh your memory. On page three twenty-four, line seventeen, "Question: Based on the tax interest of Mr. Steingold and the remainder of the trust, for tax purposes is this a contingent remainder under the definition of IRS?" The witness said, "Under the IRS estate rule, since his interest is contingent on him reaching age fifty and he has no rights, the trust would not be included in his estate until he reaches fifty."

Do you recall that or did you conveniently forget that also?

A. Mr. Steingold, as I said before, if that's what the witness said,

that's what the witness said. As I recall, what you just read is he was referring to how the IRS considered matters for the purpose of tax purposes. ..."

CERTIFICATE OF REPORTER

IN THE STATE OF FLORIDA. )
)
IN THE COUNTY OF PALM BEACH.)

I, Charla (Niki) Williams, Certified Verbatim Reporter, Notary Public, State of Florida at Large,

DO HEREBY CERTIFY that the foregoing and annexed pages, numbered 1 through 24, inclusive, is a true and correct transcription of the excerpted proceedings had in the aforesaid cause, Supreme Court Case No. 77,912, before the Honorable Karen Martin, Presiding Referee on the 6th day of March, 1992.

I FURTHER CERTIFY that I am not related to or employed by any of the

parties or their counsel, nor am I interested in the outcome of this action.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal this 19th day of March, 1996.

Charla N. Williams

Charla (Niki) Williams, CVR, Notary Public, State of Florida at Large. My commission expires February 14, 1996.

CHARLA N. WILLIAMS MY COMMISSION EXPIRES FEB 14 1996 CC 178107 NOTARY PUBLIC STATE OF FLORIDA